

Introduced by Senator Liu

February 1, 2012

An act to add Section 634.3 to the Welfare and Institutions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

SB 988, as introduced, Liu. Wards: attorney qualifications.

Existing law provides that any person under 18 years of age who commits a crime is within the jurisdiction of the juvenile court, except as specified. Existing law further provides that a minor has the right to counsel in proceedings to declare the minor a ward of the court. If the minor and his or her parents are indigent, the minor is entitled to appointed counsel.

This bill would specify that all minors who are represented by counsel in wardship proceedings are entitled to competent counsel, as defined. Further, this bill would set forth mandatory training and education standards for attorneys representing minors in wardship proceedings. Under this bill, an attorney would be solely responsible for fulfilling these requirements. An attorney would also be responsible for meeting regularly with his or her client, as well as contacting professionals associated with the client's case, working with other counsel and the court to resolve the case without a contested hearing, and adhering to mandated timelines. By increasing the duties of these attorneys, including public defenders, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 634.3 is added to the Welfare and
2 Institutions Code, to read:
3 634.3. (a) The Legislature finds and declares the following:
4 (1) As representing children in the juvenile justice system,
5 particularly in delinquency court, has become much more complex
6 than the practice was a generation ago, there is a greater need for
7 education, training, and resources in this specialized discipline.
8 (2) Problems in preparation and representation by attorneys at
9 early stages in the adjudicatory process often result in harmful or
10 less favorable outcomes for children at and after disposition.
11 (3) Not only are dependency attorneys required to meet
12 mandatory minimum training and education requirements to certify
13 that they are qualified to represent children in dependency
14 proceedings, but all stakeholders in dependency court are required
15 to meet mandatory minimum education and training requirements
16 and standards of practice before working in dependency court and
17 on a continuing basis.
18 (4) It is incumbent that California's juvenile delinquency
19 attorneys have the appropriate skill set to meet demands of this
20 growing complex area of legal practice.
21 (b) For purposes of this section, "competent counsel" means an
22 attorney who meets all of the following criteria:
23 (1) Is a member in good standing of the State Bar of California.
24 (2) Has participated in training in juvenile law for proceedings
25 under Sections 601 and 602 as required by subdivision (d).
26 (3) Demonstrates adequate forensic skills, knowledge, and
27 comprehension of the statutory scheme, the purposes and goals of
28 proceedings under Sections 601 and 602, the specific statutes, the
29 rules of court, and cases relevant to those proceedings, and
30 procedures for filing law and motion matters in juvenile court.

1 (c) Every minor in a proceeding under Section 601 or 602 who
2 is represented by an attorney is entitled to competent counsel.

3 (d) Only attorneys who have completed a minimum of eight
4 hours of training or education in the area of wardship proceedings
5 may be appointed to represent minors in juvenile court under
6 Sections 601 and 602. Attorneys must complete at least eight hours
7 of education every three years related to proceedings under Sections
8 601 and 602. In addition to a summary of wardship law and related
9 statutes and cases, training and education for attorneys must include
10 information on child development, special education, mental health
11 issues, child abuse and neglect, substance abuse, domestic violence,
12 and family reunification and preservation.

13 (e) An attorney shall be solely responsible for fulfilling the
14 training and education requirements. The attorney's employer shall
15 not be responsible for the training of attorneys and may hire
16 attorneys that have not been trained.

17 (f) Attorneys or their agents shall meet regularly with clients,
18 regardless of the child's age or ability to communicate verbally.
19 The attorney for the child must have sufficient contact with the
20 child to establish and maintain an adequate and professional
21 attorney-client relationship.

22 (g) Attorneys or their agents shall contact social workers,
23 probation officers, or other professionals associated with the
24 client's case, work with other counsel and the court to resolve
25 disputed aspects of a case without a contested hearing, and adhere
26 to the mandated timelines. The attorney for the child is not required
27 to assume the responsibilities of a social worker or to perform
28 services for the child that are unrelated to the child's legal
29 representation.

30 SEC. 2. If the Commission on State Mandates determines that
31 this act contains costs mandated by the state, reimbursement to
32 local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.